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Docket No. 58328US002****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): Leigh E. WOOD et al.) Group Art Unit: 3677
Serial No.: 10/674,174) Examiner: Ruth C. Rodriguez
Confirmation No.: 1946)
Filed: September 29, 2003)
For: **CLOSURE SYSTEM AND METHOD OF MANUFACTURE**

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REPLY BRIEF

Commissioner for Patents
Mail Stop Appeal Brief - Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief is presented in response to the Examiner's Answer received in connection with the Appeal filed February 12, 2007, from the final rejection of claims 1-3, 7-15, and 29-44 of the above-identified application under 37 C.F.R. §§1.113 and 1.191.

Although Appellants continue to request review and reversal of the rejections of all of claims 1-3, 7-15, and 29-44, the supplemental arguments presented in this Reply Brief will be limited to the rejection of claims 29-43.

Claims 29-43

Claims 29-43 were rejected under 35 U.S.C. §103(a) as being unpatentable over European Patent Document EP 0 669 121 A1 (EP '121) in view of U.S. Patent No. 5,656,111 (Dilnik et al.).

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Page 2 of 3

Reply Brief

Serial No.: 10/674,174

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As noted in Appellant's Brief on Appeal, a *prima facie* case of obviousness has not been established because the cited references do not, as asserted, teach or suggest the features recited in claims 29-43. In particular, EP '121 discloses only a conventional "Y-bond" and Dilnik et al. does not address the shortcomings of EP '121 with respect to these features.

The closure system recited in claims 29-43 does not, however, include a conventional Y-bond because the first major surface of the carrier tab of the closure systems recited in claims 29-43 is not attached to the second major surface of the base tab within the overlap region. *See, e.g., Appellant's Brief on Appeal*, p. 7. An analysis of the teachings of EP '121 was presented in the Appellants' Brief on Appeal to establish that the components of EP '121 correlated to the carrier tab and the base tab (i.e., tape substrate member 48 and side panel 90, respectively) must be attached to each other in a manner explicitly prohibited by claims 29-43.

In the Examiner's Answer, however, it is asserted that "a Y-bond is [not] required for all embodiments disclosed by EP '121." *Examiner's Answer*, p. 7. As support for that assertion, the Examiner relies on lines 37-41 of column 23 of EP '121. That portion of EP '121 does not, however, provide any support for the position that EP '121 teaches that the substrate member 48 is not attached to the side panel 90.

In essence, the rejection of claims 29-43 is based on the assertion that that the bond between the substrate member 48 and the side panel 90 is optional because EP '121 teaches that the bond between the release tape 74 and the substrate member 48 is optional. EP '121 does not, however, teach that the bond between the substrate member 48 and the side panel 90 is optional and the optional nature of the attachment of release tape 74 to substrate member 48 provides no support for a position to the contrary.

Rather, the fact that the bond between the release tape 74 and the substrate member 48 is optional can only serve as evidence that the substrate member 48 must be attached to the side panel 90 – which is in direct conflict with the requirement in claims 29-43 that "the first major

Reply Brief

Page 3 of 3

Serial No.: 10/674,174

Confirmation No.: 1946

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surface of the carrier tab and the second major surface of the base tab are not attached to each other within the overlap region."

There is no dispute that the release tape 74 is described in EP '121 as optionally attached to the substrate member 48. In the absence of that optional attachment, the substrate member 48 must be attached to the side panel 90. If, as asserted in support of the rejection of claims 29-43, the substrate member 48 is not attached to the side panel 90, then the diapers would be non-functional because the user-bond region 52 (provided to secure the diaper on the wearer) would not be attached to the diaper at all.

In view of the above, Appellants submit that EP '121 and Dilnik et al., taken either separately or together, do not support a case of *prima facie* obviousness with respect to claims 29-43. Review and reversal of the rejection of claims 29-43 are, therefore, respectfully requested.

Respectfully submitted by

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